

**EXPLANATORY NOTES  
ON THE  
AMENDMENTS TO THE IMSO CONVENTION  
PROPOSED BY THE PARTY OF THE  
UNITED STATES OF AMERICA**

---

I. INTRODUCTION

The International Maritime Organization (IMO), through its Maritime Safety Committee (MSC), adopted amendments to chapter V of the Convention on the Safety of Life at Sea (SOLAS) relating to the long range identification and tracking of ships (LRIT). The IMO also adopted provisions for the performance standards, functional requirements and timely implementation of a system for LRIT. The performance standards and technical requirements called for a LRIT Co-ordinator to be appointed by the MSC, and the MSC, at its 82<sup>nd</sup> Session, appointed IMSO as LRIT Co-ordinator to provide LRIT Co-ordination services at no cost to Member States of the IMO and IMSO, or to the ships participating in the system.

It was the sense of the majority of participants at the Eighteenth Session of the IMSO Assembly that IMSO should accept and perform the role of LRIT Co-ordinator in an expedited manner in accordance with the IMO designation. That session of the IMSO Assembly adopted a single sentence amendment to the IMSO Convention with the intention of communicating to the IMO the IMSO Assembly's desire to expand the mandate of the Organization to enable IMSO to perform the duties of LRIT Co-ordinator. The one sentence amendment appeared at Article 4, "Other Functions" of the IMSO Convention and provides as follows: "Subject to the decision of the Assembly, the Organization may assume functions and/or duties of Co-ordinator of Long-Range and Tracking of Ships (LRIT), at no cost to Parties, in accordance with the decisions of the International Maritime Organization."

The majority of the participants at the Nineteenth (Extraordinary) Session of the IMSO Assembly decided that the one sentence amendment relating to LRIT should be provisionally applied from 7 March 2007<sup>1</sup>, pending its formal entry into force in accordance with Article 18 of the IMSO Convention. The Party of the United States of America (United States) and some other Parties expressed concern about the uncertain

---

<sup>1</sup> The United States understands that this means that those Parties agreeing to such provisional application will conduct themselves, in their relationships with each other and the Organization, within the limits allowed by their national constitutions, laws and regulations, as if the amendments were in force with effect from such date.



international public law basis for this decision, and the inadequacy of the one sentence amendment text, but committed to the creation of a properly comprehensive amendment text and its implementation at the earliest opportunity.

## II. REQUIREMENT FOR PROPOSED AMENDMENTS

The United States has supported, and will continue to support, implementation of LRIT on schedule, so long as it is based on a sound legal foundation. However, the United States strongly believes that the one sentence amendment adopted at the Eighteenth Session of the IMSO Assembly is substantively deficient and does not provide the necessary legal framework for IMSO to undertake the necessary functions and duties of the LRIT Co-ordinator, as established by the IMO.

The one sentence amendment does not comprehensively address issues facing IMSO in taking on the role of LRIT Co-ordinator. It does not provide for essential elements of governance, it does not provide for essential accounting between IMSO's role as GMDSS overseer and as LRIT Co-ordinator, and, it does not provide any guidance or authority with regard to entering into contractual relationships for LRIT services.

It is essential that IMSO's authority to engage in the role of LRIT Co-ordinator is clear, unambiguous, and comprehensively addressed in the IMSO Convention. It is therefore necessary to adopt a comprehensive set of substantive amendments to the IMSO Convention in order to provide the necessary legal framework to allow the Organization to carry out LRIT Co-ordinator functions and duties. The United States is proposing such a set of amendments.

In addition, there are various administrative requirements which should be detailed in order for IMSO to perform the functions and duties of LRIT Co-ordinator. Because of their essentially administrative nature, these requirements are not appropriate to include in the IMSO Convention. Accordingly, the United States is proposing a Resolution to include these administrative requirements, and the United States respectfully requests that this Resolution be considered together with the proposed amendments.

## III. PROPOSED AMENDMENTS

### A. Preamble

In order to provide for the expansion of IMSO's mandate to assume the role of LRIT Co-ordinator, background information is set forth to explain the underlying



framework of IMO's amendments, resolutions, and actions involving LRIT, as well as the MSC's appointment of IMSO as LRIT Co-ordinator and IMSO's desire to perform the functions and duties of LRIT Co-ordinator in accordance with IMO resolutions.

B. Article 1 -- Definitions

Definitions for various terms relating to LRIT are provided.

C. Article 4 – Other Functions

It is provided that IMSO shall perform the functions and duties of LRIT Co-ordinator in a fair and consistent manner.

D. Article 5 – Oversight

The proposed amendments specify that this Article relates to Oversight of GMDSS only.

E. Article 6 – LRIT Co-ordinator Services

This is a new Article to specify the standards and requirements for IMSO's provision of LRIT Co-ordinator services, *i.e.*, in accordance with IMO's Performance Standards and Functional Requirements for LRIT. This Article also gives IMSO the authority to enter into contractual relationships for LRIT that are negotiated by the Director and approved by the Assembly, that are at no cost to the member States of IMO, the Parties of IMSO, and ships participating in the system, and that limit IMSO liability.

F. Article 11 – Assembly – Functions

The proposed amendments make clear that certain existing provisions of the IMSO Convention relate solely to GMDSS. The proposed amendments separately provide for Assembly review and approval of actions relating to IMSO's performance of the duties and functions of LRIT Co-ordinator.

G. Article 13 – Costs

The proposed amendments set forth the requirements for keeping separate books and records for GMDSS oversight on the one hand, and for LRIT duties and functions on the other. The proposed amendments also specify the costs of the organization that need to be paid and make clear that no Party shall be obligated to pay for any costs associated with the performance by IMSO of LRIT Co-ordinator functions and duties by reason of its status as a Party to the IMSO Convention.

IV. PROPOSED RESOLUTION



The Resolution is intended to cover administrative matters necessary for IMSO to perform the role of LRIT Co-ordinator but which are not necessarily appropriate to be included as proposed amendments to the Convention because of their administrative nature.

The Resolution confirms the proposed amendments concerning IMSO's performance of the duties and functions of LRIT Co-ordinator and provides more specific guidance on what IMSO can do in the performance of these duties. The Resolution instructs the Directorate to keep separate and transparent books of account, based on generally accepted accounting principles (GAAP) for GMDSS activities on the one hand, and for LRIT activities on the other. The Resolution makes clear that the Organization shall not charge GMDSS Providers costs associated with LRIT Co-ordination, and shall not charge LRIT contracting entities costs associated with the oversight of GMDSS Providers. Furthermore, the Resolution provides for the apportionment of costs between various activities, requires that all accounts be audited on an annual basis, and states that the Assembly shall, from time to time, consider and review the purposes, policies and objective of the Organization in the performance of its role as LRIT Co-ordinator.

